

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6834

BILL NUMBER: SB 234

NOTE PREPARED: Dec 31, 2008

BILL AMENDED:

SUBJECT: Public Safety Funding.

FIRST AUTHOR: Sen. Buck

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill eliminates the authority of a political subdivision to impose a property tax for public safety services. It imposes a public safety service fee instead of the property tax. It allows the imposition of an impact fee for capital improvements for public safety purposes.

The bill requires a property insurer to pay a fire department reimbursement provided in a policy in response to the property owner's claim against the insurer. It allows a fire department to charge the property owner if the reimbursement is not paid.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The Department of Local Government Finance (DLGF) must adjust the maximum permissible levy of an eligible entity to reflect the elimination of the property tax levy for public safety services. Fees imposed must be treated as ad valorem property taxes for the purpose of state homestead credit distribution in 2010.

The DLGF must provide information for the Department of State Revenue (DOR) and county auditors to make the local option income tax distributions for public safety services. The DLGF and the DOR will incur additional administrative expenses associated with the above provisions; however, it is presumed that the agencies will be able to implement these provisions given their existing levels of resources. The bill applies only to budget years beginning after December 31, 2009.

Explanation of State Revenues:

Explanation of Local Expenditures: *Establishing Rates.* The legislative body of an eligible entity must establish rates or charges for public safety services. Rates or charges are payable by the owner of each lot, parcel of land, or building or other real property improvement that is in the eligible entity; or in any way uses or is served by the eligible entity. Rates and charges should be sufficient to provide revenue to pay all expenses incident to the delivery of public safety services; provide a sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and provide adequate money to be used as working capital and money for making improvements, additions, extensions, and replacements. Initial rates or charges may be established only after a public hearing. A copy of rates and charges established must be kept on file in the principal office of the eligible entity and open to public inspection. It is expected that local units will be able to establish rates and charges given existing level of resources.

New Developments. A plan commission must notify each fire protection district of any new development or changes to new development to be constructed within the jurisdiction of the plan commission. It is expected that plan commissions will be able to implement this provision given existing levels of resources.

Fire Department Notification of Fees. A fire department that imposes a fee must mail a statement to the property owner that includes the amount of the fee, a due date, and notice that delinquent fees are subject to enforcement. It is expected that fire departments will incur additional expenses associated with this provision. Whether the units can implement this provision given existing levels of resources is unknown and will probably vary from unit to unit.

Liens Against the Property. If the property is conveyed before a lien can be filed, the officer of the eligible entity charged with the collection of the rate or charge must notify the person who owned the property at the time the fee became payable. A lien does not attach against a lot, parcel of land, or building or other real property improvement occupied by someone other than the owner unless the officer of the eligible entity notifies the owner of the property after the rates or charges have become 60 days delinquent. It is presumed that units will be able to implement this provision given existing levels of resources.

Enforcement of Delinquencies. If rates or charges or penalties have been unpaid for 90 days, the officer of the entity must, not more than two times in a year, prepare a list of the delinquent rates or charges and record a copy of the list in the office of the county recorder. The county recorder must charge a fee for the recording. The county auditor must enter on the tax duplicate the delinquent fees; penalties; service charges; and recording fees that are due not later than the due date of the next installment of property taxes.

After recording the list, the officer must mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded. A service charge of \$5, which is in addition to the recording fee, must be added to each delinquent rate or charge that is recorded. The county recorder must charge a fee for releasing a lien. After June 1 of each year, the officer may not collect delinquent rates or charges; penalties; service charges; recording fees; or certification fees from property owners whose property has been certified to the county auditor. The county treasurer must collect the unpaid money in the same way that delinquent property taxes are collected.

In a county containing a consolidated city, the officer must certify to the county auditor a list of the liens that remain unpaid. On receipt of the list, the county auditor must add a \$15 certification fee for each lot or parcel of real property on which rates or charges are delinquent. The certification fee is in addition to all other fees and rates or charges.

At the time of each semiannual tax settlement, the county treasurer must certify to the county auditor all rates or charges, fees, and penalties that have been collected. The county auditor must deduct the service charges and certification fees collected by the county treasurer and pay to the eligible entity the remaining fees and penalties due the eligible entity.

The county treasurer must deposit the service charges and certification fees in the county general fund.

Foreclosure of Liens. An eligible entity may foreclose a lien as a means of collection of rates or charges, including penalties. In all actions brought to foreclose the liens, the eligible entity is entitled to recover the amount of the rates or charges, penalties, and reasonable attorney's fees.

Explanation of Local Revenues: (Also, see *Explanation of Local Expenditures* above.) This bill eliminates the authority of a political subdivision to impose a property tax for public safety services. It imposes a public safety service fee in lieu of the property tax. A fee imposed applies to all property that is subject to assessment regardless of whether the property is exempt from ad valorem property taxes. However, personal property would not be included, which could result in a shift in who pays the tax from personal property owners to real property owners. The bill would reduce property taxes by about \$2.3 B. Public safety services would be funded with user fees of probably over \$2.3B since currently exempt property could be included. User fees would not apply to property currently exempt from property taxes unless the units require the person to pay the fee.

The bill provides that local units must adjust maximum permissible levies to reflect the elimination of the property tax levy for public safety services. However, rates and charges imposed must be treated as ad valorem property taxes for the purpose of distributions of local option income taxes, financial institutions taxes, and excise taxes.

Public safety services include police, fire, emergency ambulance services, emergency medical services, and emergency action. The user fee would be set at a rate sufficient to provide revenue needed to:

1. Pay all expenses incidental to the delivery of public safety services.
2. Provide a sinking fund for the liquidation of bonds.
3. Provide adequate money to be used as working capital for making improvements, additions, extensions, and replacements.

The rate or charges can be based on:

1. A flat charge for each lot, parcel of property, or building.
2. The amount of police and fire services used.
3. The relative police and fire risk.
4. Whether the political subdivision is required to purchase or lease special equipment to deliver services to the property.
5. Other factors determined by the political subdivision to establish a just and equitable rate.

The bill also allows the imposition of an impact fee for capital improvements for public safety purposes. The bill also requires a property insurer to pay fire department reimbursement provided in a policy in response to the property owner's claim against the insurer. It allows a fire department to charge the property owner if the reimbursement is not paid. The amount of revenue that will be generated by these provisions is unknown as it will depend on the number and nature of fires that occur.

Penalties for Failure to Pay. If rates or charges are not paid within the time fixed by the eligible entity, the rates or charges become delinquent and a penalty of 10% of the amount of the rates or charges attaches to

the rates or charges. The eligible entity may recover the amount due, the penalty, and reasonable attorney's fees in a civil action in the name of the eligible entity.

State Agencies Affected: DLGF, DOR.

Local Agencies Affected: Political subdivisions.

Information Sources: Local Government Database.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586; David Lusan, 317-232-9592.